

BILL ANALYSIS

Senate Research Center

S.B. 707
By: Rosson
Economic Development
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Enrolled

BACKGROUND

At one time, aerosol paints were accessible to customers only with the assistance of store personnel. This requirement was amended by the legislature to prohibit local ordinances that required these products to be accessible to customers only with the assistance of store personnel, but it remained illegal to sell spray paint and abusable glues to anyone under the age of 18.

H.B. 173 (70th Legislature, Regular Session) required the Texas Department of Health to establish a permit system for retailers of abusable glues and aerosol paints. Eventually, the legislature gave the department enforcement authority over the selling of abusable glues and aerosol paints.

PURPOSE

As enrolled, S.B. 707 provides that a person younger than 18 years of age commits an offense if the person knowingly and intentionally possesses aerosol paint; regulates the availability of aerosol paints in business establishments; provides penalties for violations.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 485C, Health and Safety Code, by adding Section 485.0331, as follows:

Sec. 485.0331. POSSESSION OF AEROSOL PAINT BY A MINOR. (a) Provides that a person younger than 18 years of age commits an offense if the person knowingly and intentionally possesses aerosol paint.

(b) Provides that it is an affirmative defense to prosecution that the person possesses aerosol paint while under the direct supervision of an adult having supervisory responsibility over the person.

(c) Provides that an offense under this section is a Class C misdemeanor.

SECTION 2. Amends Chapter 485B, Health and Safety Code, by adding Section 485.019, as follows:

Sec. 485.019. RESTRICTION OF ACCESS TO AEROSOL PAINTS. (a) Sets forth requirements for a business that displays aerosol paints.

(b) Authorizes a court to issue a warning to a business for its first violation or impose a civil penalty of \$100. Provides that after receiving a warning or penalty for a first violation, a business is liable to the state for a civil penalty of \$100 for each subsequent violation.

(c) Authorizes the court to issue an injunction prohibiting the business from selling aerosol paints for no more than two years for the third violation of this section in a calendar year. Provides that a business that violates the injunction is liable to the state

for a civil penalty of \$100, in addition to any other penalties, for each day the violation continues.

(d) Authorizes the court to issue an injunction prohibiting the business from selling aerosol paints until it pays the penalty, attorney's fees, and court costs if a business fails to pay a civil penalty under this section.

(e) Authorizes the attorney general or the county or district attorney of the county in which the violation is alleged to have occurred to file suit to issue a warning, collect a penalty, or request an injunction.

(f) Requires a penalty collected under this section to be deposited in the state treasury to the credit of the general revenue fund.

SECTION 3. Effective date: September 1, 1995.

SECTION 4. Emergency clause.